

9 FAM PART IV Appendix N, 400 BENEFITS UNDER INA 212(h) AND (i)

(TL:VISA-278; 05-11-2001)

9 FAM 401 WAIVER APPLICATION AND INTERVIEW

(TL:VISA-278; 05-11-2001)

a. When a consular officer refuses an immigrant visa to an applicant who is eligible to apply for the benefits of a waiver under INA 212(h) or (i), the officer should expand the interview to elicit information required by INS in order to determine whether the waiver of ineligibility should be granted [see *9 FAM PART IV Appendix N, Exhibit VII*]. The record of the interview should be typewritten or otherwise printed legibly.

b. The officer should request the alien to complete Form I-601, Application for Waiver of Grounds of Excludability, or, if it is not practical for the alien to complete the form at the time of the interview, to complete, sign, and mail the form to the consular office.

c. The officer should then forward the completed and signed Form I-601, the record of the interview, and the unclassified portion of the applicant's visa file, including any visa petition, to the appropriate INS office.

9 FAM 401.1 Applicant in United States After Age 14

(TL:VISA-175; 01-15-1998)

If the applicant has been in the United States after reaching age 14, the consular officer must also send a completed fingerprint chart (FBI Form FD-258) and Form G-325, Biographic Information, to the INS office.

9 FAM 401.2 Interviewing Applicant's Relatives

(TL:VISA-175; 01-15-1998)

a. If the applicant's spouse is present in the consular district, the consular officer should also interview the spouse to determine the degree of hardship which s/he would suffer if the applicant is not permitted to immigrate, and the spouse's knowledge, if any, of the applicant's activity which resulted in the refusal of a visa.

b. If the applicant's eligibility for the benefits of a waiver under INA 212(h) or (i) depends upon the relationship to a parent, son, or daughter present in the consular district, the consular officer should also interview that relative to determine the degree of hardship which would be imposed on the relative by the inability of the applicant to obtain a visa.

9 FAM 402 WHEN INS PERMISSION TO REAPPLY AFTER DEPORTATION OR REMOVAL NEEDED

(TL:VISA-175; 01-15-1998)

An alien who has been ordered removed under INA 235(b)(1) or at the end of proceedings under INA 240 initiated upon the alien's arrival in the United States, and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal, or at any time in the case of an alien convicted of an aggravated felony), is inadmissible.

9 FAM 403 PRE-PROCESSING CASE OF ALIEN IN THE UNITED STATES

(TL:VISA-152; 9-9-96)

If an immigrant visa case that has been accepted for pre-processing includes an application on Form I-601, the required interview may be conducted by the consular officer abroad or, at the alien's request, by an INS officer in the United States. If the alien requests the latter procedure, the consular officer shall advise the applicant to communicate directly with the INS district office having jurisdiction over the alien's place of residence in the United States.

9 FAM 404 SENDING CLASSIFIED MATERIAL TO INS

(TL:VISA-278; 05-11-2001)

The consular officer must forward the classified portion of an applicant's visa file to INS in accordance with the instructions contained in 9 FAM PART IV Appendix A, General, 500. The documents furnished to INS will be reviewed and returned to the consular office.